

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	MB Docket No. 02-277
2002 Biennial Regulatory Review –)	
Review of the Commission’s)	
Broadcast Ownership Rules and)	MM Docket No. 01-235
Other Rules Adopted Pursuant to)	
Section 202 of The)	
Telecommunications Act of 1996)	
Cross-Ownership of Broadcast Stations and)	
Newspapers)	

COMMENTS OF THE HEARST CORPORATION

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January 2, 2003

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The Hearst Corporation (“Hearst”), by its attorneys, hereby submits these comments in response to the Commission’s *Notice of Proposed Rulemaking* in MB Docket No. 02-277, released on September 23, 2002 (“*NPRM*” or “*Notice*”). These comments supplement Hearst’s comments filed one year ago in the Commission’s *Notice of Proposed Rulemaking on Cross-Ownership of Broadcast Stations and Newspapers*, MM Docket 01-235 (“*2001 NPRM*”), which the Commission has stated it will include as part of this biennial review proceeding.¹ Hearst submits these comments in continued support of repeal of the Commission’s current newspaper-broadcast cross-ownership restriction.

¹ *NPRM* at ¶ 7.

I. Statement of Identity and Interest

Hearst is a privately held company with broad communications interests, including newspapers, magazines, business publishing and broadcast stations.² These comments are filed in particular on behalf of Hearst Newspapers, a division of Hearst, which publishes twelve daily newspapers – in major cities and in smaller markets – and fourteen weekly newspapers.

Hearst has filed several pleadings with the Commission since 1998 advocating repeal of the newspaper-broadcast cross-ownership rule (“the cross-ownership rule”).³ Because the Commission will include the record from the 2001 NPRM on the cross-ownership rule as part of the record in this proceeding, Hearst does not provide herein an in-depth reiteration of arguments it has already made. Rather, Hearst participates in this proceeding solely for the purpose of highlighting the recent findings of the Commission’s Media Ownership Working Group Studies.

² The broadcast television properties are for the most part held by Hearst-Argyle Television, Inc., a publicly traded company in which Hearst has a controlling interest. Hearst-Argyle is submitting separate comments in this proceeding. Hearst also has ownership interests in cable networks, and produces and distributes programming for cable and broadcast television.

³ E.g., *Comments of the Hearst Corporation (1998 Biennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 2002 of the Telecommunications Act of 1996)* (filed July 21, 1998) (“*Hearst 1998 Comments*”); the *Petition of the Hearst Corporation, Media General, Inc., Gannett Company, Inc., and Tribune Company in Support of the Newspaper Association of America’s Emergency Petition for Relief*, MM Docket 98-35, MM Docket 96-197 (filed Nov. 12, 1999) (“*Hearst et al 1999 Petition*”); *Comments of the Hearst Corporation (Notice of Proposed Rulemaking on Cross-Ownership of Broadcast Stations and Newspapers)*, MM Docket No. 01-235 (filed Dec. 3, 2001) (“*Hearst 2001 Comments*”); and *Reply of the Hearst Corporation (Notice of Proposed Rulemaking on Cross-Ownership of Broadcast Stations and Newspapers)*, MM Docket No. 01-235 (filed Feb. 15, 2002).

Several of the Commission's studies corroborate and substantiate the evidence that Hearst and other parties have provided in support of repeal of the cross-ownership rule.⁴

Taken together, these studies reaffirm that diversity and competition in the communications marketplace are thriving at the same time the Commission has relaxed or repealed several other ownership restrictions. Indeed, the studies provide additional evidence that co-ownership resulting from repeal would promote improved performance in the distribution of news and information. The Commission should therefore conclude that repeal of the cross-ownership rule would enhance the newspaper industry's ability to benefit from this diverse and competitive marketplace as other media already have.

II. The Commission's Studies Confirm that Diversity is Abundant in the Media Marketplace.

The studies' review of the current state of the media marketplace provides significant empirical evidence to support Hearst's own conclusion that the marketplace is extremely diverse. Technological advancements have spurred such growth in the media marketplace that any public interest rationale for the cross-ownership rule that may have existed in 1975 can no longer be defended. In fact, the increase in the number of media outlets has occurred at the same time the Commission has relaxed or repealed many of its ownership rules.⁵ This concurrence of events is

⁴ See *Hearst 2001 Comments*; See also *Comments of Hearst-Argyle Television, Inc.*, MM Docket Nos. 01-235, 96-197 (filed Dec. 3, 2001) ("*Hearst-Argyle Comments*"); *Comments of the Newspaper Association of America*, MM Docket Nos. 01-235, 96-197 (filed Dec. 3, 2001) ("*NAA Comments*"); *Comments of Belo Corp.*, MM Docket Nos. 01-235, 96-197 (filed Dec. 3, 2001) ("*Belo Comments*"); *Comments of Tribune Company*, MM Docket Nos. 01-235, 96-197 (filed Dec. 3, 2001); *Comments of Gannett Co., Inc.*, MM Docket Nos. 01-235, 96-197 (filed Dec. 3, 2001) ("*Gannett Comments*"); *Comments of Cox Enterprises, Inc.*, MM Docket Nos. 01-235, 96-197 (filed Dec. 3, 2001) ("*Cox Comments*"); .

⁵ *NPRM* at ¶¶ 10-11.

telling. Simply stated, it demonstrates that repeal or relaxation of ownership rules is not harmful to diversity.

Both the Commission's *NPRM* and Study #1 provide statistics on the dramatic increase in the number of video, audio, newspaper and other outlets available to the public.⁶ Study #1's analysis indicates that the number of outlets across the ten markets studied has grown over forty years by an average of almost 200 percent.⁷ While the increase in the number of independent owners of these outlets is less dramatic, Study #1 still found that there had been a significant increase in owners since 1960 and that the number remains plentiful in a variety of geographic markets.⁸ These findings support the data Hearst provided in its 2001 filing and provide the Commission with additional empirical evidence demonstrating that repeal of the cross-ownership

⁶ *NPRM* at ¶¶ 23-28; Scott Roberts, Jane Frenette and Dione Stearns, *On A Comparison of Media Outlets and Owners for Ten Selected Markets (1960, 1980, 2000)*, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002) ("Study #1"). Indeed, the only media source among those considered that has decreased in number since 1975 is the daily newspaper. Total daily newspaper circulation, Monday-Friday, has also decreased. However, the number and circulation of weekly newspapers have increased during the same time period. Newspaper Association of America, *Facts About Newspapers 2001, A Statistical Summary of the Newspaper Industry* 12-14 (2002).

⁷ Study #1 at Section I. Study #1 reviewed the number and ownership of broadcast, cable, direct broadcast satellite ("DBS") and daily newspaper properties in 10 markets, examining every 28th market of the 285 Arbitron Metro markets. The study specifically accounted for commercial and non-commercial radio stations in the relevant Arbitron markets, and all commercial and non-commercial television stations in the appropriate Designated Market Area ("DMA"). It included cable as one outlet and one owner where it was present. In 2000 DBS was counted as two systems, with two separate owners. The study tallied daily newspapers published in the Arbitron Radio Metro principal city. *Id.* at Section II.

⁸ *Id.* at Section III. While the significant outlet diversity demonstrated by Study #1 is astonishing even by itself, the study's analysis does not account for the increased availability of additional independent outlets, such as Internet sites and weekly newspapers, which should also be considered.

rule would not adversely impact the availability of media outlets in the significant majority of local media markets.⁹

In its *NPRM*, the Commission seeks information regarding consumer usage of media as a further indicator of diversity in the marketplace.¹⁰ Study #3 *On Consumer Substitution Among Media* specifically considers the substitutability of daily newspapers, weekly newspapers, broadcast television, the Internet, cable television and radio as consumer sources for news.¹¹ Study #3 found significant media substitutability, concluding that consumers rely on a mix of these media for news and information.¹² In particular, the study found substitution between daily newspapers and weekly newspapers, broadcast television, cable television, radio, and the Internet.¹³ The study also found broadcast television substitutable for news with the Internet and

⁹ See *Hearst 2001 Comments, Appendices A-C*, providing empirical data regarding the number of outlets in three of its markets – San Francisco, CA, San Antonio, TX, and Albany, NY.

¹⁰ *NPRM* at ¶ 42.

¹¹ Joel Waldfogel, *On Consumer Substitution Among Media* at 24, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002) (“Study #3”). Hearst particularly commends this study’s review of a broad variety of media when considering consumer substitutability. By contrast, Study #10 on advertising substitutability, while useful, fails to consider the relevance of competition from media other than broadcast stations and newspapers. See *infra* at 9.

¹² Study #3 at 2-3. Study #8 also confirms the view that consumers consider a broad range of media substitutable. Nielsen Media Research, *Consumer Survey on Media Usage*, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002) (“Study #8”). This survey analyzed data from over three thousand interviews. These interviews concentrated specifically on the respondents’ use of different types of media – including broadcast, cable, satellite, daily newspapers, weekly newspapers, the Internet and magazines – as sources for news and information. The study demonstrates that the public relies heavily on a mix of media (old and new) and that in the event one medium was no longer available, consumers would seek information from several alternative media. See, e.g., Study #8 at Tables 001-008, 097, 021-026, and 045-050.

¹³ Study #3 at 34, 39.

radio.¹⁴ Such findings are especially important when considered in conjunction with the number of outlets now available in almost all media markets. As empirical evidence that Hearst and Hearst-Argyle shared with the Commission in 2001 indicates, a significant number of independent voices exist in all but the smallest DMAs.¹⁵

III. The Commission's Studies Confirm that Repeal of the Cross-Ownership Ban Will Not Harm Viewpoint Diversity and Will Likely Enhance It.

The Commission's studies demonstrate that repeal of the cross-ownership rule and resulting co-ownership will not harm the level of program and viewpoint diversity in the local media marketplace.¹⁶ With regard to the effect of newspaper-broadcast co-ownership on program diversity in particular, Study #7, *On the Measurement of Local Television News and Public Affairs Programs*, found that network affiliates co-owned with newspaper publishers provide better quality and greater quantity of local news programming than affiliates which do not also own newspapers.¹⁷ These findings lend support to Hearst's position presented in

¹⁴ *Id.* at 39.

¹⁵ *Hearst 2001 Comments, Appendices A-C; Hearst-Argyle Comments, Exhibit 1.* Study #3 indicates that even in the few cases where there are a limited number of local voices in a smaller market, diversity is protected by the availability of national media, such as cable and the Internet, that also compete for consumer attention. Study #3 at 37, 39.

¹⁶ Study #9 confirms, for example, the significant number of radio formats currently available, even after the radio ownership consolidation resulting from the 1996 Act. George Williams, Keith Brown and Peter Alexander, *On Radio Market Structure and Music Diversity* at 17, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002).

¹⁷ Thomas C. Spavins, Loretta Denison, Scott Roberts, Jane Frenette, *On the Measurement of Local Television News and Public Affairs Programs* at 1, 4, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002) ("Study #7"). In this study, co-ownership refers to a company that owns at least one television station and one daily newspaper irrespective of whether the station and newspaper serve the same geographic market. *Id.* at fn.1.

previous filings that newspaper-broadcast co-ownership facilitates greater efficiencies and economies of scale, which in turn result in improved performance and diversity.¹⁸

Further support for repeal of the cross-ownership rule is found in Study #2's examination of viewpoint diversity. Study #2, *On Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign*, reviewed ten markets to examine whether commonly-owned newspapers and television stations provided similar editorial coverage of the 2000 presidential campaign. The study concludes that there was "no generalized evidence of ownership manipulation of the news in the situations of local cross-ownership we studied."¹⁹ In five of the markets, the editorial viewpoints of the co-owned newspapers and broadcast stations were noticeably different regarding the presidential campaign.²⁰

Study #2's findings confirm a point that Hearst first made in its 1998 Biennial Review comments. In those comments, Hearst specifically discussed the separate operations of its own newspaper and broadcast groups, noting that each presents its own editorial viewpoints and thereby dismissing concern that common ownership would amount to common editorial

¹⁸ *Hearst 1998 Comments* at 19-23; *Hearst et al 1999 Petition* at 15-17; *Hearst 2001 Comments* at 16-17; *See also NAA Comments* at 18-37; *Belo Comments* at 4-8; *Gannett Comments* at 7-13.

¹⁹ David Pritchard, *On Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign* at 11, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002)("Study #2").

²⁰ Study #2 at 8. In the other five markets, the viewpoints were not significantly different. However, it would not be remarkable that a newspaper and television station in the same market independently decided to endorse the same presidential candidate. As an important aside, the study reviewed four markets in which Tribune operates newspapers and concluded that the company clearly did not require its papers to coordinate their endorsements for president. *Id.* at 9.

positions.²¹ Study #2's findings on cross-ownership demonstrate that Hearst's practices regarding editorial independence are common in the industry and that viewpoint diversity (as it relates to news and information in particular) is not likely to be jeopardized by cross-ownership.

IV. A Review of the Commission's New Data on Advertising Substitutability Confirms the Existence of a Competitive Media Marketplace.

During the Commission's 2001 proceeding to consider the status of the newspaper-broadcast cross-ownership rule, Hearst argued that repeal of the rule would not affect competition in the local media marketplace for two reasons. First, while television, radio and newspapers compete for the total amount of advertising dollars available in a local market, their substitutability is limited.²² Study #10's examination of the substitutability of advertising in the local media marketplace supports this conclusion.²³ Specifically, this study examines whether there is a single local media market or several distinct local markets for newspaper, radio and television advertising. The study does not reach a definitive conclusion on this question, but finds complementary substitutability among the three.²⁴ Its findings confirm that advertisers use a mix of media, suggesting, as Hearst has, that the three media compete for portions of the overall advertising dollars available in a local market.²⁵ Study #10 also finds that the advertising

²¹ *Hearst 1998 Comments* at 16.

²² *Hearst 2001 Comments* at 14; *NAA Comments* at 56-65; *Cox Comments* at 16-20.

²³ C. Anthony Bush, *Study #10 On the Substitutability of Local Newspaper, Radio and Television Advertising in Local Business Sales*, released in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317 and 00-244 (Sept. 2002)("Study #10").

²⁴ Study #10 at 8.

²⁵ *Id.* at 5, 8.

industry's multistage decision process for placing advertising results in some substitutability between local media, with slightly greater substitutability between newspapers and radio than between newspapers and television.²⁶ This finding is consistent with Hearst's own experience that newspapers and broadcast television compete for some advertising, but the substitutability is by no means complete.²⁷ The limits on substitutability of the three media also limit the possible impact on market power of co-ownership.

Second, to the extent the Commission finds the substitutability between newspapers and broadcasters to be statistically significant, the Commission must also consider the presence of alternative media in the marketplace that compete for local advertising dollars.²⁸ Empirical data filed with the Commission in 2001 shows an increasing number of other media outlets also competing for local advertising dollars.²⁹ The data strongly suggests that a number of additional media sources would continue to compete for advertising dollars in the local markets even in the event of newspaper-broadcast mergers. While Study #10 does not contemplate the issue of competition from other media, such as cable television, direct mail, outdoor advertising and the Internet, the Commission's 2001 record demonstrates a significant level of advertising competition between these media.³⁰ Thus, there is significant empirical evidence before the

²⁶ *Id.* at 12. There is no statistically significant substitutability between television and radio. *Id.*

²⁷ For example, classified advertising -- a type of advertising for which broadcasters and newspapers compete less than in other areas -- represented 34% of the dollars spent on advertising in Hearst newspapers in 2000. *Hearst 2001 Comments* at 14.

²⁸ *Hearst 2001 Comments* at 14; *NAA Comments* at 65-72; *Cox Comments* at 16.

²⁹ *Hearst 2001 Comments* at 13-16, Appendices A-C. In 2001, newspapers and broadcasters competed for a combined share of only 46% of the national and local advertising market. A diverse and competitive market makes up the remaining 54%. *Id.* at 14; *NAA Comments* at 65-72.

³⁰ See, e.g., *Hearst 2001 Comments* at 14-16; *NAA Comments* at 65-72; *Cox Comments* at 16-20.

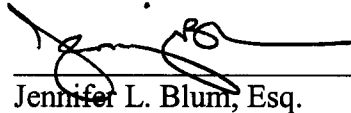
Commission that the advertising industry views newspapers and broadcast media as complementary in nature and part of a larger multi-media mix. These findings confirm that whether any competitive rationale for the cross-ownership rule existed in 1975, it is no longer present in the marketplace.³¹

V. Conclusion

For the reasons provided above and established in the Commission's 2001 *NPRM* record, Hearst encourages the Commission to repeal the newspaper-broadcast cross-ownership rule. The empirical evidence sought by the Commission demonstrates an impressive level of diversity and competition in the local media marketplace, indicating no public interest rationale for maintaining an arbitrary and inequitable regulatory regime over the newspaper and broadcast industries. Indeed, evidence presented in the record demonstrates that the rule's repeal would further the Commission's desired goals of improving the quality and quantity of news and information. Accordingly, the Commission's record, supplemented by the recent findings of the aforementioned studies, requires repeal of the newspaper-broadcast cross-ownership rule.

³¹ As a final note to the Commission's competition analysis, Hearst responds to the *NPRM*'s inquiry of whether it is within the Commission's authority to conduct a review of the advertising market. As Hearst stated in 2001, if the Commission repeals the cross-ownership rule, the Department of Justice or the Federal Trade Commission will continue to protect competition by retaining responsibility on a case-by-case basis for approving media mergers and reviewing the advertising market issue in particular. If the Commission were to only relax its rule, however, such action may result in new Commission authority over print media not traditionally within its jurisdiction. *Hearst 2001 Comments* at 13; *See also NAA Comments* at Section V(F); *Cox Comments* at 16-17.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. Blum", is written over a horizontal line.

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